

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

App. No. : 09/736,649  
Applicant : SAGE, Mike  
Filed : 12/13/2000  
TC/A.U. : 3627  
Examiner : FISCHER, Andrew  
Customer No. : 36067  
Conf. No. : 8281

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For: System And Method For Implementing A Wireless Network In A Service Center For  
Generating A Repair Order

Commissioner for Patents  
703-872-9306

Sir:

**RESPONSE TO RESTRICTION UNDER 35 U.S.C. 121**

This response addresses the restriction requirement of August 27<sup>th</sup>, 2003. Applicant hereby elects Group I as designated by the Examiner with traverse, (corresponding to claims 1-13).

Although Applicant must elect and has done so, Applicant believes the restriction to be improper for the following reasons and respectfully requests reconsideration and withdrawal of the restriction requirement.

Inventions I and II are related by process and apparatus for its practice as stated by the Examiner. The Examiner has stated that the apparatus claims can be used to practice a materially different process, "one that confirms the order". However there is no support in the specification for "confirms the order" and the Examiner has not explained what support has been used to make this assertion, hence the assertion is believed by Applicant to be erroneous. There would be no undue burden for the Examiner to search for an apparatus to perform the process as claimed since the process claim comprises a wireless communication link and a memory device, i.e., apparatus.

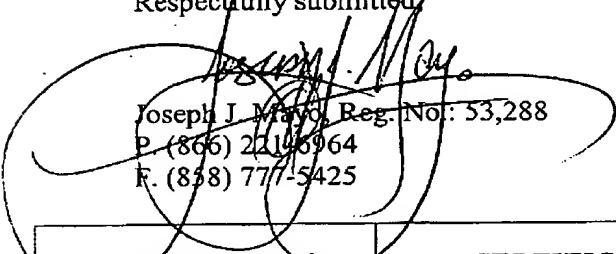
Inventions I and III are related by process and apparatus for its practice as stated by the Examiner. The Examiner has stated that the process can be practiced by a materially different apparatus -- "one that does not require the repair order generator to query the database". As stated by the Examiner, an apparatus that does not require the repair order generator is not

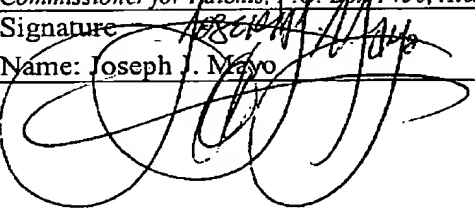
believed to be a materially different apparatus as claimed since the "generating a repair order" step (claim 1) could not be performed by an invention that does not have a repair order generator (claim 19). The Examiner has provided no substitute device that could be used to accomplish this step and no support for the statement that the process can be practiced by a materially different apparatus other than the Examiner's assertion. There would be no undue burden for the Examiner to search for an apparatus to perform the process as claimed since the process claim comprises a wireless communication link and a memory device, i.e., apparatus.

Applicant agrees with the Examiner in that a Restriction between group II and III would be improper.

It is therefore requested that the restriction requirement be reconsidered and withdrawn and that examination on the merits take place using the original set of claims. It is difficult to conceive of any process and apparatus claims that would ever be allowed to remain in one application if the style of restriction used in by the Examiner the instant office action were utilized in all patent application examinations. Should the Examiner have any questions about this election or listing of claims readable thereon, or the request to rescind the restriction requirement, please contact Applicant's representative at the number provided below. As applicant has addressed all issues raised by the Examiner, Applicant hereby requests examination on the merits in either case.

Respectfully submitted,

  
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| Customer Number<br><b>36067</b> | I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on <u>March 21, 2005</u> to (703) 872-9306 or is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:<br>Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. |
|                                 | Signature:  Date: March 21, 2005   |
|                                 | Name: Joseph J. Mayo   |